

SECOND REGULAR SESSION

SENATE BILL NO. 906

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SINGLETON.

Read 1st time January 26, 2000, and 1,000 copies ordered printed.

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TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 197, RSMo, by adding thereto one new section relating to health care facilities, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 197, RSMo, is amended by adding thereto one new section, to be known as section 197.760, to read as follows:

197.760. 1. Any agent or employee of a health care facility as defined in this chapter or a long term health care facility as defined in chapter 198, RSMo, who knows or has reasonable cause to believe that the quality of care of a patient, patient safety, or the health care facility's or long term health care facility's safety is in jeopardy shall make a written report of the problem to a designated representative of the health care facility or long term health care facility, and, after seven working days, may also send it to the department of health, the division of aging, or to any appropriate private, public, state, or federal agency.

2. The designated representative of the health care facility or long term health care facility who receives a report pursuant to subsection 1 of this section shall investigate the problem, take appropriate action, and provide a response to the individual reporting the problem and to the department of health or the division of aging within seven working days.

3. The identity of any agent or employee of a health care facility who reports in good faith to a designated representative of the health facility or long term health care facility or department about the quality of care, services, or conditions of a health care facility shall remain confidential and shall not be disclosed by any person except upon the knowing written consent of the agent or employee of the health care facility and except in the case in which there is imminent danger to health or public safety or an

imminent violation of criminal law.

4. No health care facility licensed pursuant to this chapter or long term health care facility licensed pursuant to chapter 198, RSMo, shall by policy, contract, procedure, or other formal or informal means subject to reprisal, or directly or indirectly use, or threaten to use, any authority or influence, in any manner whatsoever, to discriminate against or penalize any agent or employee on the grounds that the agent or employee in good faith disclosed to the health care facility or long term health care facility the circumstances or facts to form the basis of a report pursuant to subsection 1 or 2 of this section. No health care facility or long term health care facility shall require any agent or employee to give notice prior to making a disclosure pursuant to subsection 1 or 2 of this section.

5. Any agent or employee of a health care facility who believes that he or she has been retaliated or discriminated against in violation of subsection 4 of this section may file a civil action in a court of competent jurisdiction against the person believed to have violated subsection 4 of this section no later than two years after the date of the last event constituting the alleged violation for which the action is brought.

(1) Any person who violates a provision of subsection 4 of this section shall be subject to a civil penalty of no more than three thousand dollars for each violation. In determining the amount of any penalty pursuant to this subdivision, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be deducted from any sums owing by the state of Missouri to the person charged or ordered by the court, in an action brought for a violation of subsection 4 of this section brought by the agent or employee of the health care facility who suffered retaliation or discrimination.

(2) Any person who willfully and repeatedly violates a provision of subsection 4 of this section and such violation is related to:

- (a) A pattern or practice of such violations;**
- (b) Quality of care, services, or conditions which would likely lead to serious injury or death for patients or health care workers; or**
- (c) Retaliation against a health care worker which could lead to serious injury or death, shall be guilty of a class D felony.**

6. This section shall not be construed to apply to an employee's disclosure of information that violates state or federal law or regulations governing the confidentiality of patient records or impairs or diminishes the patient's rights of confidentiality of communications pursuant to state and federal law.

7. All health care facilities licensed pursuant to this chapter or chapter 198, RSMo, shall, as a condition of licensure, abide by the terms of this section.

8. As used in this section, a disclosure shall be presumed to be done in good faith if the person reasonably believes the information to be true and before making the disclosure to regulatory or licensing authorities, the employee has followed reasonable hospital procedures or policies established for the purpose of addressing quality concerns. Such procedures shall be presumed to be known to the employee if they have been made available to him or her through a facility-wide distribution or posting. This subdivision shall not apply if the disclosure of information concerns an imminent hazard of loss of life or serious injury to any person;

9. No agent or employee of a health care facility shall file a report pursuant to subsection 1 or 2 of this section in bad faith and any agent or employee shall have a reasonable basis for filing a report.

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